



DELTA STEWARDSHIP COUNCIL

A California State Agency

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November 5, 2012

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Christopher M. Knopp

Susan Dell'Osso, Project Director
River Islands at Lathrop
73 W. Stewart Road
Lathrop, California 95330

Dear Ms. Dell'Osso:

I am writing at your request in order to clarify how the Delta Stewardship Council's consistency certification process works related to plans, projects and programs that meet the statutory definition of being a covered action (see Water Code Section 85057.5). In our July 27th, 2012 letter we wrote:

"A key feature of the Act's consistency certification process is that the determination of whether a project is a covered action (which necessitates the filing of a certification of consistency) is made by the state or local agency that approves, funds, or carries out the project, rather than the Delta Stewardship Council. The Council's role, as provided in Water Code Section 85225.5 is to assist state and local agencies in preparing a certification through early consultation on a proposed action."

In our October 30th meeting, hosted by Assembly Member Joan Buchanan, we offered to clarify this point in writing. As written in the September 5th, 2012 version of the final draft Delta Plan (Chapter 2, page 54):

"Who Determines Whether a Proposed Plan, Program, or Project is a Covered Action?"

A State or local agency that proposes to carry out, approve, or fund a plan, program, or project is the entity that must determine whether that plan, program, or project is a covered action. That determination must be reasonable, made in good faith, and consistent with the Delta Reform Act and relevant provisions of this Plan. If requested, Council staff will meet with an agency's staff during early consultation to review consistency with the Delta Plan and to offer advice as to whether the proposed plan, program, or project appears to be a covered action, provided that the ultimate determination in this regard must be made by the agency. If an agency determines that a proposed plan, program, or project is not a covered action, that determination is not subject to Council regulatory review, but is subject to judicial review as to whether it was reasonable, made in good faith, and is consistent with the Delta Reform Act and relevant provisions of the Plan."

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

Susan Dell'Osso, Project Director
River Islands at Lathrop
November 5, 2012
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Our next steps in the development and adoption of the Delta Plan are for the Council to circulate a supplemental volume of the Draft Programmatic Environmental Impact Report (released in November 2011) and to concurrently commence the rulemaking process. Adoption of a final Delta Plan by the Delta Stewardship Council is expected in late Spring/early Summer of 2013.

If you have any questions or need additional information please contact me at (916) 445-4294 or dan.ray@deltacouncil.ca.gov.

Sincerely,



Dan Ray
Chief Deputy Executive Officer
Delta Stewardship Council

cc: Honorable Members of the Senate Natural Resources & Water Committee
The Honorable Joan Buchanan, Member of the Assembly
The Honorable Bill Berryhill, Member of the Assembly
The Honorable Cathleen Galgiani, Member of the Assembly
Honorable Mayor and Members of the Lathrop City Council
Stephen Salvatore, Interim City Manager for the City of Lathrop
Members of the Delta Coalition
Stephen Qualls, League of California Cities
Secretary John Laird, CA Natural Resources Agency
Phil Isenberg, Chair, DSC
DSC Council Members
Christopher Knopp, Executive Director, DSC
David Nelson, Senior Vice President of Land Development, A.G. Spanos Companies
Jared Ficker, California Strategies
Anthony Barkett, Esq.
Frank L. Ruhstaller, Chairman, San Joaquin County Board of Supervisors
Glenn Gebhardt, Director of Community Development/City Engineer, City of Lathrop
Kurt Schuparra, California Strategies
Michael Brown, Brown Sand and Gravel